

AMENDED IN ASSEMBLY SEPTEMBER 6, 2001

AMENDED IN ASSEMBLY JULY 18, 2001

AMENDED IN ASSEMBLY JULY 5, 2001

AMENDED IN SENATE MAY 7, 2001

AMENDED IN SENATE APRIL 16, 2001

AMENDED IN SENATE MARCH 29, 2001

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**SENATE BILL**

**No. 732**

**Introduced by Senator Ortiz**

(Coauthors: Assembly Members Cohn, Lowenthal, *Pavley*, and  
Salinas)

February 23, 2001

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An act to *amend Section 1102.6 of the Civil Code*, and to add Chapter 18 (commencing with Section 26100) to Division 20 of, the Health and Safety Code, relating to toxic mold.

LEGISLATIVE COUNSEL'S DIGEST

SB 732, as amended, Ortiz. Toxic mold.

Existing law provides the State Department of Health Services with various powers to enforce its regulations, to promulgate regulations to protect the public health, and to enjoin and abate nuisances dangerous to public health. The department is vested with the power to perform studies, evaluate existing projects, disseminate information, and provide training programs to enforce regulations related to public health.

This bill would enact the Toxic Mold Protection Act of 2001. The bill would require the department to convene a task force comprised of

various individuals including, but not limited to, health officers, health and medical experts, mold abatement experts, *representatives of government-sponsored enterprises, representatives from school districts or county offices of education, representatives of employees and representatives of employers*, and affected consumers and affected industries including, residential, commercial, and industrial tenants, proprietors, landlords, insurers, builders, and managers, to advise the department on the development of permissible exposure limits to mold, standards for assessment of molds in indoor environments as well as alternative standards for hospitals, child care facilities, and nursing homes, standards for identification, and remediation of mold.

This bill would require the department to consider the feasibility of adopting permissible exposure limits to molds in indoor environments ~~in consultation with the task force~~. If it is determined to be feasible, the department would be required to adopt, *in consultation with the task force*, permissible exposure limits to mold for indoor environments that avoid adverse health effects. The department would be required to report its progress on developing the permissible exposure limits for molds by July 1, 2003.

This bill would require, that in the process of adopting the permissible exposure limits, the department *would be required to* conduct studies, consider specific delineated criteria, and consult with the task force to arrive at both permissible exposure limits to mold to avoid adverse effects on health on the general public and alternative permissible exposure limits to avoid adverse health effects for hospitals, child care facilities, and nursing homes, whose primary business is to serve members of a subgroup that is a meaningful portion of the general population. This bill would also require the department, in consultation with the task force to develop and adopt ~~standards~~ *guidelines* for the identification and the remediation of toxic molds.

This bill would require that, after the adoption of permissible exposure limits to molds, the department would be required to review and revise the exposure limits at least once every 5 years and consider any new technological or treatment techniques or new scientific evidence that indicates that molds may present a different health risk than was previously determined.

This bill would also require the department develop and adopt standards for the assessment of the health threat posed by the presence of molds, *both visible and invisible or hidden*, in indoor environments. The department would be required to consider specific delineated

criteria in developing the assessment standard including the balancing of the protection of public health with ~~technologic~~ *technological* and economic feasibility. The department would also be authorized to adopt alternative assessment standards for hospitals, child care facilities, and nursing homes. The department would be required to report its progress on developing the assessment standards for molds by July 1, 2003.

After the adoption of mold assessment standards, the department *would review* and revise the exposure limits at least once every 5 years and consider any new technological or treatment techniques or new scientific evidence that indicates that molds may present a different health risk than was previously determined.

The bill would provide for specific protocol to allow the public to be involved in the process to determine permissible exposure limits to mold, ~~standards~~ *guidelines* for identification and remediation of mold, and the ~~standards~~ *guidelines* for the assessment of molds.

This bill would require the department to develop public education materials and resources to inform the public about the health effects of molds, methods of prevention, methods of identification and remediation of mold growth and mold infestation, and contact information to organizations or governmental entities to assist public concerns.

This bill would, except under specified circumstances, also require that any person who sells, transfers, or rents residential, commercial, or industrial real property or a public entity that owns, leases, or operates a building; who knows, or in specified instances has reasonable cause to believe, that mold is present that affects the unit or building, and the mold exceeds the permissible exposure limits to molds, would be required to provide a written disclosure to potential buyers, prospective tenants, renters, landlords, or occupants; of the mold conditions.

This bill would also require a residential, commercial, ~~and~~ *or* industrial landlord to maintain units and buildings in a habitable condition sufficient for the occupation of human beings, as required by law. However, this bill would not require a landlord, owner, seller, or transferor; to conduct air *or surface* tests to determine whether the presence of molds exceeds the permissible exposure limits ~~or constitutes mold infestation as defined in the bill~~, or for mold remediation.

The duties and requirements of this bill would not apply until the January 1 or July 1 that occurs at least 6 months after the department adopts the requisite standards, *and guidelines*, as provided in the bill.



This bill would authorize the enforcement of all conditions of this bill including the disclosure provisions by designated enforcement officers.

*The implementation of this bill would depend on the extent to which the department determines funds are available for its implementation.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1.   *Section 1102.6 of the Civil Code is amended to*  
2   *read:*

3     1102.6.   The disclosures required by this article pertaining to  
4   the property proposed to be transferred are set forth in, and shall  
5   be made on a copy of, the following disclosure form:



NOTE TO PRINTING OFFICE: INSERT CAMERA-READY  
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for Real Estate Transfer Disclosure Statement

as printed on pages 9 to 13 of Chapter 926, 1996 Statutes.



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1  
2 SEC. 2. Chapter 18 (commencing with Section 26100) is  
3 added to Division 20 of the Health and Safety Code, to read:

4  
5 CHAPTER 18. TOXIC MOLD

6  
7 Article 1. General Provisions

8  
9 26100. This chapter shall be known, and may be cited, as the  
10 Toxic Mold Protection Act of 2001.

11 26101. For purposes of this chapter, the following definitions  
12 apply:

13 (a) “Affect” means to cause a condition by the presence of  
14 mold in the dwelling unit, building, appurtenant structure,  
15 common wall, heating system, or ventilating and air-conditioning  
16 system that affects the indoor air quality of a dwelling unit or  
17 building.

18 (b) “Authoritative bodies” means any recognized national or  
19 international entities with expertise on public health, mold  
20 identification and remediation, or environmental health,  
21 including, but not limited to, other states, the United States  
22 Environmental Protection Agency, the World Health  
23 Organization, the American Conference of Governmental  
24 Industrial Hygienists, the New York City Department of Health,  
25 the Centers for Disease Control and Prevention, and the American  
26 Industrial Hygiene Association.

27 (c) “Certified Industrial Hygienist” means a person who has  
28 met the education, experience, and examination requirements of  
29 an industrial hygiene certification organization as defined in  
30 Section 20700 of the Business and Professions Code.

31 (d) “Code enforcement officer” means a local official  
32 responsible for enforcing housing codes and maintaining public  
33 safety in buildings using an interdepartmental approach at the local  
34 government level.

35 (e) “Department” means the State Department of Health  
36 Services, designated as the lead agency in the adoption of  
37 permissible exposure limits to mold in indoor environments, mold  
38 identification and remediation efforts, and the development of  
39 guidelines for the determination of what constitutes mold  
40 infestation.

(f) “Indoor environments” means the affected dwelling unit or affected commercial or industrial building.

~~(g) “Industrial hygienist” means a person who has met the educational requirements of an industrial hygiene certification organization as defined in subdivision (c) of Section 20700 of the Business and Professions Code, and who has had at least one year in the comprehensive practice of industrial hygiene as defined in subdivision (a) of Section 20700 of the Business and Professions Code.~~

~~(h)~~  
(g) “Mold” means any form of multicellular fungi that live on plant or animal matter and in indoor environments. Types of mold include, but are not limited to, ~~cladosporium, penicillium, alternaria, aspergillus, fusarium, trichoderma, memnoniella, mucor, and stachybotrys~~ *Cladosporium, Penicillium, Alternaria, Aspergillus, Fuarim, Trichoderma, Memnoniella, Mucor, and Stachybotrys* chartarum, often found in water-damaged building materials.

~~(i)~~  
(h) “Person” means an individual, corporation, company, association, partnership, limited liability company, municipality, public utility, or other public body or institution.

~~(j)~~  
(i) “Public health officer” means a local health officer appointed pursuant to Section 101000 or a local comprehensive health agency designated by the board of supervisors pursuant to Section 101275 to carry out the drinking water program.

26101.5. All standards that the department develops pursuant to this chapter shall be in accordance with existing administrative law procedures applicable to the development of regulations.

26101.7. The department shall convene a task force which shall advise the department on the development of standards pursuant to Sections 26103, 26105, 26106, 26120, and 26130. The task force shall be comprised of representatives of public health officers, environmental health officers, code enforcement officers, experts on the health effects of molds, medical experts, certified industrial hygienists, mold abatement experts, *representatives of government-sponsored enterprises, representatives from school districts or county offices of education, representatives of employees and representatives of employers, and affected*

1 consumers, which include, but are not limited to, residential,  
2 commercial and industrial tenants, homeowners, environmental  
3 groups, and attorneys, and affected industries, which include, but  
4 are not limited to, residential, commercial and industrial building  
5 proprietors, managers or landlords, builders, realtors, suppliers of  
6 building materials and suppliers of furnishings, and insurers. *Task*  
7 *force members shall serve on a voluntary basis and shall be*  
8 *responsible for any costs associated with their participation in the*  
9 *task force. The department shall not be responsible for travel costs*  
10 *incurred by task force members or otherwise compensating task*  
11 *force members for costs associated with their participation in the*  
12 *task force.*

13 26102. The department, ~~in consultation with the task force~~  
14 ~~convened pursuant to Section 26101.7,~~ shall consider the  
15 feasibility of adopting permissible exposure limits to mold in  
16 indoor environments.

17 26103. (a) If the department finds that adopting permissible  
18 exposure limits to mold in indoor environments is feasible, the  
19 department, in consultation with the task force convened pursuant  
20 to Section 26101.7, shall:

21 (1) Adopt permissible exposure limits to mold for indoor  
22 environments that avoid adverse effects on health, with an  
23 adequate margin of safety, and avoid any significant risk to public  
24 health.

25 (2) Notwithstanding paragraph (1), balance the protection of  
26 public health with technological and economic feasibility when it  
27 adopts permissible exposure limits.

28 (3) Utilize and include the latest scientific data or existing  
29 standards adopted by authoritative bodies.

30 (4) Develop permissible exposure limits that target the general  
31 population.

32 (b) The department shall consider all of the following criteria  
33 when it adopts permissible exposure limits for molds in indoor  
34 environments:

35 (1) The adverse health effects of exposure to molds on the  
36 general population, including specific effects on members of  
37 subgroups that comprise a meaningful portion of the general  
38 population, which may include infants, children age 6 years and  
39 under, pregnant women, the elderly, asthmatics, allergic  
40 individuals, immune compromised individuals, or other

1 subgroups that are identifiable as being at greater risk of adverse  
2 health effects than the general population when exposed to molds.

3 (2) The standards for molds, if any, adopted by authoritative  
4 bodies.

5 (3) The technological and economic feasibility of compliance  
6 with the proposed permissible exposure limit for molds. For the  
7 purposes of determining economic feasibility pursuant to this  
8 paragraph, the department shall consider the costs of compliance  
9 to tenants, landlords, homeowners, and other affected parties.

10 (4) Toxicological studies and any scientific evidence as it  
11 relates to mold.

12 (c) The department may develop alternative permissible  
13 exposure limits applicable for facilities, which may include  
14 hospitals, child care facilities, and nursing homes, whose primary  
15 business is to serve members of subgroups that comprise a  
16 meaningful portion of the general population and are at greater risk  
17 of adverse health effects ~~to~~ *from* molds than the general population.  
18 These subgroups may include infants, children age 6 years and  
19 under, pregnant women, the elderly, asthmatics, allergic  
20 individuals, or immune compromised individuals.

21 (d) The department shall report to the Legislature on its  
22 progress in developing the permissible exposure limit for molds by  
23 July 1, 2003.

24 26104. (a) (1) The department shall, at the time it  
25 commences preparation of the permissible exposure limits to  
26 mold, provide notice electronically by posting on its Internet Web  
27 site a notice that informs interested persons that the department has  
28 initiated work on the permissible exposure limits to mold.

29 (2) The notice shall also include a brief description; or a  
30 bibliography of the technical documents or other information the  
31 department has identified to date as relevant to the preparation of  
32 the permissible exposure limits.

33 (3) The notice shall inform persons who wish to submit  
34 information concerning exposure to molds of the name and  
35 address of the person in the department to whom the information  
36 may be sent, the date by which the information must be received  
37 in order for the department to consider it in the preparation of the  
38 permissible exposure limits, and that all information submitted  
39 will be made available to any member of the public who makes the  
40 request.

~~(b) Each permissible exposure limit draft prepared by the department pursuant to this subdivision shall be made available to the public at least 45 calendar days prior to the date that public comment and discussion are solicited.~~

~~(c) After the department finalizes the permissible exposure limits to molds, the department shall respond in writing to any significant comments, data, studies, or other written information submitted to the office in connection with the preparation of the permissible exposure limits. Any such comments, data, studies, or other written information submitted to the department shall be made available to any member of the public who makes the request.~~

~~(d)~~

~~(b)~~ The department, ~~in consultation with the task force~~, may amend the permissible exposure limits to molds to make the limits less stringent if the department shows clear and convincing evidence that the permissible exposure limits to molds should be made less stringent and the amendment is made consistent with Section 26103.

~~(e)~~

~~(c)~~ The department may review, and consider adopting by reference, any information prepared by, or on behalf of the United States Environmental Protection Agency or other authoritative bodies, for the purpose of adopting national permissible exposure limits to molds.

~~(f)~~

~~(d)~~ At least once every five years, after adoption of permissible exposure limits to molds, the department shall review the adopted limits and shall, consistent with the criteria set forth in subdivisions (a) and (b) of Section 26103, amend the permissible exposure limits if any of the following occur:

(1) Changes in technology or treatment techniques that permit a materially greater protection of public health.

(2) New scientific evidence that indicates that molds may present a materially different risk to public health than was previously determined.

26105. (a) The department, in consultation with the task force convened pursuant to Section 26101.7, shall adopt practical standards to assess the health threat posed by the presence of mold, *both visible and invisible or hidden*, in an indoor environment ~~and~~

1 ~~determine whether the presence of mold constitutes mold~~  
2 ~~infestation.~~

3 (b) The department shall adopt assessment standards for molds  
4 that do the following:

5 (1) ~~Avoid adverse effects on health, with an adequate margin of~~  
6 ~~safety, and avoid any significant risk to public health. Protect the~~  
7 ~~public's health.~~

8 (2) Notwithstanding paragraph (1), balance the protection of  
9 public health with technological and economic feasibility when it  
10 adopts assessment standards.

11 (3) Utilize and include the latest scientific data or existing  
12 standards for the assessment of molds adopted by authoritative  
13 bodies.

14 (4) Develop standards that target the general population.

15 (5) The department shall ensure that air or surface testing is not  
16 required to determine whether the presence of mold constitutes  
17 ~~mold infestation~~ *a health threat posed by the presence of mold,*  
18 *both visible and invisible or hidden, in an indoor environment.*

19 (c) The department shall consider all of the following criteria  
20 when it adopts standards for the assessment of molds in indoor  
21 environments:

22 (1) The adverse health effects of exposure to molds on the  
23 general population, including specific effects on members of  
24 subgroups that comprise a meaningful portion of the general  
25 population, which may include infants, children age 6 years and  
26 under, pregnant women, the elderly, asthmatics, allergic  
27 individuals, immune compromised individuals, or other  
28 subgroups that are identifiable as being at greater risk of adverse  
29 health effects than the general population when exposed to molds.

30 (2) The standards for assessment of molds, if any, adopted by  
31 authoritative bodies.

32 (3) The technological and economic feasibility of compliance  
33 with the proposed permissible exposure limit for molds. For the  
34 purposes of determining economic feasibility pursuant to this  
35 paragraph, the department shall consider the costs of compliance  
36 to tenants, landlords, homeowners, and other affected parties.

37 (4) Any toxicological studies or additional scientific evidence.

38 ~~(d) A certified industrial hygienist is qualified to conduct a~~  
39 ~~mold assessment.~~

40 ~~(e)~~

(d) The department shall report to the Legislature on its progress in developing the assessment standards for molds by July 1, 2003.

26106. ~~(a)~~—The department may develop alternative assessment standards applicable for facilities, which may include hospitals, child care facilities, and nursing homes, whose primary business is to serve members of subgroups that comprise a meaningful portion of the general population and are at greater risk of adverse health effects to molds than the general population. These subgroups may include infants, children age 6 years and under, pregnant women, the elderly, asthmatics, allergic individuals, or immune compromised individuals.

26107. (a) (1) The department shall, at the time it commences preparation of standards for the assessment of molds, provide notice electronically by posting on its Internet Web site a notice that informs interested persons that the department has initiated work on the assessment standards.

(2) The notice shall also include a brief description, or a bibliography, of the technical documents or other information the department has identified to date as relevant to the preparation of the assessment standards.

(3) The notice shall inform persons who wish to submit information concerning the assessment of molds in indoor environments of the name and address of the person in the department to whom the information may be sent, the date by which the information must be received in order for the department to consider it in the preparation of the assessment standards, and that all information submitted will be made available to any member of the public who makes the request.

~~(b) Each assessment standard draft prepared by the department pursuant to this section shall be made available to the public at least 45 calendar days prior to the date that public comment and discussion are solicited.~~

~~(c) After the department finalizes the assessment standards for molds, the department shall respond in writing to any significant comments, data, studies, or other written information submitted to the office in connection with the preparation of the assessment standards for molds. Any such comments, data, studies, or other written information submitted to the department shall be made available to any member of the public who makes the request.~~



~~(d)~~

(b) The department may review, and consider adopting by reference, any information prepared by, or on behalf of, the United States Environmental Protection Agency or other authoritative bodies, for the purpose of adopting national assessment standards for molds.

~~(e)~~

(c) At least once every five years, after adoption of assessment standards for molds, the department shall review the adopted standards and shall, consistent with the criteria set forth in subdivisions (a), (b), and (c) of Section 26105, amend the standards if any of the following occur:

(1) Changes in technology or treatment techniques that permit a materially greater protection of public health.

(2) New scientific evidence that indicates that molds may present a materially different risk to public health than was previously determined.

## Article 2. ~~Standards~~ *Guidelines* for Identification of Molds

26120. The department, in consultation with the task force convened pursuant to Section 26101.7, shall adopt mold identification ~~standards~~ *guidelines* for the recognition of mold, water damage, or microbial volatile organic compounds in indoor environments.

26121. Identification ~~standards~~ *guidelines* shall include scientifically valid methods to identify the presence of mold including elements for collection of air, surface and bulk samples, visual identification, olfactory identification, laboratory analysis, ~~and~~ measurements of amount of moisture, and presence of mold *and other recognized analytical methods used for the identification of molds.*

26122. (a) Identification ~~standards~~ *adopted guidelines developed* by the department shall do all of the following:

(1) Avoid adverse effects on *the* health of the general population, with an adequate margin of safety, and avoid any significant risk to public health.

(2) Notwithstanding paragraph (1), balance the protection of public health with technological and economic feasibility.

(3) Utilize and include the latest scientific data or existing standards for the assessment of molds adopted by authoritative bodies.

(b) The department shall consider all of the following criteria when it ~~adopts identification standards~~ *develops identification guidelines* for mold:

(1) Permissible exposure limits to molds developed by the State Department of Health Services pursuant to subdivisions (a) and (b) of Section 26103, or what constitutes ~~mold infestation a health threat posed by the presence of mold, both visible and invisible or hidden, in an indoor environment,~~ according to the department's ~~guidelines standards~~ as developed pursuant to Section 26105.

(2) Standards for mold identification, if any, adopted by authoritative bodies.

(3) Professional judgment and practicality.

(4) Toxicological reports or additional scientific evidence.

(c) The department shall not require a commercial, industrial, or residential landlord or a public entity that rents or leases a unit or building to conduct air or surface tests of units or buildings to determine whether the presence of molds exceeds the permissible exposure limits to mold established by subdivisions (a), (b), and (c) of Section 26103.

(d) The department shall develop a reporting form for building inspection that may be used to document the presence of mold.

(e) The department shall report to the Legislature on its progress in developing identification ~~standards~~ *guidelines* for mold by July 1, 2003.

26123. The department may review, and consider adopting by reference, any information prepared by, or on behalf of, the United States Environmental Protection Agency or other authoritative bodies, for the purpose of adopting national identification standards for molds.

26124. (a) ~~(1)~~—The department shall, at the time it commences preparation of identification ~~standards~~ *guidelines* for mold, electronically post on its Internet Web site a notice that informs interested persons that it has initiated work on the identification ~~standards~~ *guidelines*.

~~(2)~~—

(b) The notice shall include a brief description, or a bibliography, of the technical documents or other information the department has identified to date as relevant to the preparation of the identification ~~standards~~ *guidelines* for mold.

~~(3)–~~

(c) The notice shall inform persons who wish to submit mold identification information of the name and address of the person in the office to whom the information may be sent, the date by which the information must be received for the department to consider it in the preparation of the identification ~~standards~~ *guidelines*, and that all information submitted will be made available to any member of the public who makes the request.

~~(b) Each draft identification standard prepared by the department pursuant to this article shall be made available to the public at least 45 calendar days prior to the date that public comment and discussion on mold identification standards are solicited.~~

~~(e) The department shall respond in writing to significant comments, data, studies, or other written information submitted by interested persons to the department related to the preparation of the mold identification standards after the publication of the final identification standards. Any such comments, data, studies, or other written information submitted to the office shall be made available to any member of the public who makes the request.~~

26125. All identification ~~standards~~ *guidelines* for mold published by the department shall be reviewed at least once every five years and revised, as necessary, based upon the availability of new scientific data or information on effective mold identification.

### Article 3. ~~Standards~~ *Guidelines* for Remediation

26130. The department, in consultation with the task force convened pursuant to Section 26101.7, shall ~~adopt remediation standards~~ *develop and disseminate remediation guidelines* for molds in indoor environments.

26131. (a) Remediation ~~standards for mold adopted~~ *guidelines for mold developed* by the department shall do all of the following:

1 (1) Provide practical guidance for the removal of mold and  
2 abatement of the underlying cause of mold and associated water  
3 intrusion and water damage in indoor environments.

4 (2) ~~Avoid adverse effects and any significant risk to the public~~  
5 ~~health of the general population, with an adequate margin of~~  
6 ~~safety. Protect the public's health.~~

7 (3) Notwithstanding paragraph (2), balance the protection of  
8 public health with technological and economic feasibility.

9 (4) Utilize and include toxicological reports, the latest  
10 scientific data, or existing standards for the remediation of molds  
11 adopted by authoritative bodies.

12 (5) Provide practical guidance for the removal or cleaning of  
13 contaminated materials in a manner that protects the health of the  
14 person performing the abatement.

15 (6) Include criteria for personal protective equipment.

16 (7) Not require a landlord, owner, seller, or transferor, to be  
17 specially trained or certified or utilize the services of a specially  
18 qualified professional to conduct the mold remediation.

19 (b) The department shall consider all of the following criteria  
20 when it ~~adopts remediation standards~~ *develops remediation*  
21 *guidelines* for mold:

22 (1) Permissible exposure limits to molds developed by the  
23 department pursuant to subdivisions (a) and (b) of Section 26103,  
24 or what constitutes ~~mold infestation~~ *a health threat posed by the*  
25 *presence of mold, both visible and invisible or hidden, in an indoor*  
26 *environment*, according to the department's guidelines as  
27 developed pursuant to Section 26105.

28 (2) ~~Standards~~ *Guidelines* for mold remediation, if any, adopted  
29 by authoritative bodies.

30 (3) Professional judgment and practicality.

31 (c) The department shall not require a commercial, industrial,  
32 or residential landlord, or a public entity that rents or leases a unit  
33 or building to conduct air or surface tests of units or buildings to  
34 determine whether the presence of molds exceeds the permissible  
35 exposure limits to mold established by subdivisions (a), (b), and  
36 (c) of Section 26103.

37 (d) The department shall report to the Legislature on its  
38 progress in developing remediation standards for mold by July 1,  
39 2003.

1 26132. (a) ~~(1)~~—The department shall, at the time it  
2 commences preparation of remediation ~~standards~~ *guidelines* for  
3 mold, electronically post on its Internet Web site, a notice that  
4 informs interested persons that it has initiated work on the  
5 remediation standards.

6 ~~(2)~~—

7 (b) The notice shall also include a brief description, or a  
8 bibliography, of the technical documents or other information the  
9 department has identified to date in the preparation of remediation  
10 ~~standards~~ *guidelines* for mold.

11 ~~(3)~~—

12 (c) The notice shall inform persons who wish to submit  
13 information concerning mold remediation of the name and the  
14 address of the person in the office to whom the information may  
15 be sent, the date by which the information must be received in  
16 order for the department to consider it in the preparation of  
17 remediation standards, and that all information submitted will be  
18 made available to any member of the public who makes the  
19 request.

20 ~~(b) Each draft remediation standard prepared by the~~  
21 ~~department pursuant to this subdivision shall be made available to~~  
22 ~~the public at least 45 calendar days prior to the date that public~~  
23 ~~comment and discussion on mold remediation are solicited.~~

24 ~~(c) At the time the department publishes the final remediation~~  
25 ~~standards for mold, the department shall respond in writing to~~  
26 ~~significant comments, data, studies, or other written information~~  
27 ~~submitted by interested persons to the department in connection~~  
28 ~~with the preparation of remediation standards for mold. Any such~~  
29 ~~comments, data, studies, or other written information submitted to~~  
30 ~~the office shall be made available to any member of the public who~~  
31 ~~makes the request.~~

32 26133. The department may review, and consider adopting by  
33 reference, any information prepared by, or on behalf of, the United  
34 States Environmental Protection Agency or other authoritative  
35 bodies, for the purpose of adopting national remediation standards  
36 for molds.

37 26134. (a) The department shall make available to the public  
38 upon request, information about contracting for the removal of  
39 mold in a building or surrounding environment, including all of  
40 the following:

1 (1) Recommended steps to take when contracting with a  
2 company to remove mold.

3 (2) Existing laws, regulations, and guidelines developed by the  
4 department, pertaining to permissible exposure limits to mold  
5 infestation, identification, and remediation.

6 (3) Basic health information as contained in existing mold  
7 publications.

8 (b) All mold remediation ~~standards~~ *guidelines* published by the  
9 department shall be reviewed at least once every five years and  
10 revised, as necessary based upon the availability of new scientific  
11 data.

12 (c) (1) The State Department of Health Services shall develop  
13 public education materials and resources to inform the public  
14 about the health effects of molds, methods to prevent, identify and  
15 remediate mold growth, resources to obtain information about  
16 molds, and contact information for individuals, organizations, or  
17 government entities to assist with public concerns about molds.

18 (2) The department shall make its public education materials  
19 available to public health officers, environmental health officers,  
20 commercial and residential landlord organizations, homeowners'  
21 organizations, and tenants' organizations. These materials shall be  
22 readily available to the general public.

23 (3) These materials shall be comprehensible to the general  
24 public.

25 (4) These materials shall be produced to include other  
26 languages, in addition to English, to accommodate the diverse  
27 multicultural population of California.

28 (5) These materials shall be made available on the department's  
29 Internet Web site.

#### 31 Article 4. Disclosures

32  
33 26140. (a) Subject to subdivisions (b), (c), and (d), a seller or  
34 transferor, of commercial or industrial real property, shall provide  
35 written disclosure to prospective buyers as soon as practicable  
36 before the transfer of title when the seller or transferor knows of  
37 the presence of mold, *both visible and invisible or hidden*, that  
38 affects the unit or building and the mold either exceeds permissible  
39 exposure limits to molds established by subdivisions (a), (b), and  
40 (c) of Section 26103 or ~~constitutes mold infestation according to~~

1 ~~the mold assessment standards~~ *poses a health threat, according to*  
2 *the department's guidelines* as developed pursuant to Section  
3 26105.

4 (b) A seller or transferor of commercial or industrial real  
5 property shall be exempt from providing written disclosure  
6 pursuant to this subdivision if the presence of mold was  
7 remediated according to the mold remediation ~~standards adopted~~  
8 *guidelines developed* by the department pursuant to Section  
9 26130.

10 (c) A commercial or industrial real property landlord shall not  
11 be required to conduct air *or surface* tests of units or buildings to  
12 determine whether the presence of molds exceeds the permissible  
13 exposure limits to molds established by subdivisions (a) and (b) of  
14 Section 26103.

15 (d) The requirements of this section shall not apply until the  
16 first January 1 or July 1 that occurs at least six months after the  
17 department adopts standards pursuant to Sections 26103, ~~26105,~~  
18 ~~26120, and 26130~~ *and 26105 and develops guidelines pursuant to*  
19 *Section 26130.*

20 26141. (a) Subject to subdivisions (c), (d), and (e),  
21 commercial and industrial landlords shall provide written  
22 disclosure to prospective and current tenants of the affected units  
23 as specified in subdivision (b), when the landlord knows that  
24 mold, *both visible and invisible or hidden*, is present that affects  
25 the unit or the building and the mold either exceeds the permissible  
26 exposure limits to molds established by subdivisions (a) and (b) of  
27 Section 26103 or ~~constitutes mold infestation according to the~~  
28 ~~mold assessment standards as poses a health threat according to~~  
29 *the department's guidelines* as developed pursuant to Section  
30 26105.

31 (b) The written notice required by subdivision (a) shall be  
32 provided:

33 (1) To prospective tenants as soon as practicable and prior to  
34 entering into the rental agreement.

35 (2) To current tenants in affected units as soon as is reasonably  
36 practical.

37 (c) A commercial and industrial landlord shall be exempt from  
38 providing written disclosure to prospective tenants pursuant to this  
39 section if the presence of mold was remediated according to the



1 mold remediation ~~standards adopted~~ *guidelines developed* by the  
2 department pursuant to Section 26130.

3 (d) A commercial or industrial landlord shall not be required to  
4 conduct air *or surface* tests of units or buildings to determine  
5 whether the presence of molds exceeds the permissible exposure  
6 limits to molds established by subdivisions (a) and (b) of Section  
7 26103.

8 (e) The requirements of this section shall not apply until the  
9 first January 1 or July 1 that occurs at least six months after the  
10 department adopts standards pursuant to Sections 26103, ~~26105,~~  
11 ~~26120, and 26130~~ *and 26105 and develops guidelines pursuant to*  
12 *Section 26130.*

13 26142. Any tenant of a commercial or industrial real property  
14 who knows that mold is present in the building, heating system,  
15 ventilating or air-conditioning system, or appurtenant structures,  
16 or that there is a condition of chronic water intrusion or flood, shall  
17 inform the landlord of this knowledge in writing within a  
18 reasonable period of time. The tenant shall make the property  
19 available to the landlord or his or her agents for appropriate  
20 assessment or remedial action as soon as is reasonably practicable  
21 if the landlord is responsible for maintenance of the property.  
22 Nothing in this section is intended to any way affect existing duties  
23 and obligations of residential tenants and landlords.

24 26143. Commercial, and industrial landlords, who know or  
25 ~~are informed~~ *have notice* that mold is present in the building,  
26 heating system, ventilating or air-conditioning system, or  
27 appurtenant structures, or that there is a condition of chronic water  
28 intrusion or flood, have an affirmative duty, within a reasonable  
29 period of time, *to* assess the presence of mold or condition likely  
30 to result in the presence of mold and conduct any necessary  
31 remedial action.

32 26144. The requirements of this article shall not apply to  
33 properties where the tenant is contractually responsible for  
34 maintenance of the property, including any remedial action.

35 26145. Any tenant of a commercial or industrial real property  
36 who knows or is informed that mold is present in the building,  
37 heating system, ventilating or air-conditioning system, or  
38 appurtenant structures, or that there is a condition of chronic water  
39 intrusion or flood, and is responsible for maintenance of the  
40 property shall inform the landlord in writing of that knowledge as





1 soon as is reasonably practicable and shall correct the condition in  
2 compliance with the terms of the contract with the landlord.

3 26146. (a) A public entity that owns, leases, or operates a  
4 building shall provide written disclosure to all building occupants  
5 and prospective tenants as specified in subdivision (b) when the  
6 public entity knows, or has reasonable cause to believe, that a  
7 condition of chronic water intrusion or flood exists, or that mold,  
8 *both visible and invisible or hidden*, is present that affects the  
9 building or unit and the mold either exceeds the permissible  
10 exposure limits to molds established by subdivisions (a) and (b) of  
11 Section 26103, or ~~constitutes mold infestation according to the~~  
12 ~~mold assessment standards as~~ *poses a health threat according to*  
13 *the department's guidelines* developed pursuant to Section 26105.

14 (b) The written notice required by subdivision (a) shall be  
15 provided:

16 (1) To prospective tenants as soon as practicable and prior to  
17 entering into the rental agreement.

18 (2) To current building occupants in affected units or buildings  
19 as soon as is reasonably practical.

20 (c) A public entity shall be exempt from providing written  
21 disclosure to prospective tenants pursuant to subdivision (a) if the  
22 presence of mold was remediated according to the mold  
23 remediation ~~standards adopted~~ *guidelines developed* by the  
24 department pursuant to Section 26130.

25 (d) The requirements of this section shall not apply until the  
26 first January 1 or July 1 that occurs at least six months after the  
27 department adopts standards pursuant to Sections 26103, ~~26105,~~  
28 ~~26120, and 26130~~ *and 26105 and develops guidelines pursuant to*  
29 *Section 26130.*

30 26147. (a) Subject to subdivisions (b), (d), and (e),  
31 residential landlords shall provide written disclosure to  
32 prospective and current tenants of the affected units as specified  
33 in subdivision (b) when the *residential* landlord knows, or has  
34 reasonable cause to believe, that mold, *both visible and invisible*  
35 *or hidden*, is present that affects the unit or the building and the  
36 mold either exceeds the permissible exposure limits to molds  
37 established by subdivisions (a), (b), and (c) of Section 26103 or  
38 ~~constitutes mold infestation according to the mold assessment~~  
39 ~~standards~~ *poses a health threat according to the department's*  
40 *guidelines* as developed pursuant to Section 26105.

1 (b) ~~A~~ *Notwithstanding subdivision (a), a residential landlord*  
2 *shall not be required to conduct air or surface tests of units or*  
3 *buildings to determine whether the presence of molds exceeds the*  
4 *permissible exposure limits to molds established by subdivisions*  
5 *(a) and (b) of Section 26103.*

6 (c) The written disclosure required by subdivision (a) shall be  
7 provided:

8 (1) To prospective tenants prior to entering into the rental or  
9 lease agreement.

10 (2) To current tenants in affected units as soon as is reasonably  
11 practical.

12 (d) A residential landlord shall be exempt from providing  
13 written disclosure to prospective tenants pursuant to this section if  
14 the presence of mold was remediated according to the mold  
15 remediation ~~standards adopted~~ *guidelines developed* by the  
16 department pursuant to Section 26130.

17 (e) The requirements of this section shall not apply until the  
18 first January 1 or July 1 that occurs at least six months after the  
19 department adopts standards pursuant to Sections 26103, ~~26105,~~  
20 ~~26120, and 26130~~ *and 26105 and develops guidelines pursuant to*  
21 *Section 26130.*

22 26148. (a) Residential landlords shall provide written  
23 disclosure to prospective tenants of the potential health risks and  
24 the health impact that may result from exposure to mold by  
25 distributing ~~the appropriate public education materials approved~~  
26 *a consumer oriented booklet developed and disseminated* by the  
27 department.

28 (b) ~~The written notice required by this subdivision~~ *The*  
29 *requirements of this section* shall be provided to prospective  
30 residential tenants prior to entering the rental or lease agreement.

31 (c) *The requirements of this section shall not apply until the first*  
32 *January 1 or July 1, that occurs at least six months after the*  
33 *department approves the consumer oriented booklet, as described*  
34 *in subdivision (a).*

35 26149. (a) Nothing in this article shall relieve a seller,  
36 transferor, lessor, agent, landlord, or tenant from any  
37 responsibility for compliance with other obligations, laws,  
38 ordinances, codes, or regulations, including but not limited to the  
39 duties outlined in Sections 1941 and 1941.1 of the Civil Code and  
40 any other duties provided for under common law.

1 *(b) Nothing in this article shall alter or modify any right,*  
2 *remedy, or defense otherwise available under law.*

3 26150. (a) Nothing in this article shall affect the existing  
4 obligations of the parties, ~~including the transferor, or transferor to~~  
5 a real estate contract, or their agents, to disclose any facts  
6 materially affecting the value and desirability of the property,  
7 including, but not limited to, the physical conditions of the  
8 property and previously received reports of physical inspections  
9 noted on the disclosure form set forth in Section 1102.6 or 1102.6a  
10 of the Civil Code.

11 (b) Nothing in this article shall be construed to change the ~~duty~~  
12 *existing inspection and disclosure duties* of a real estate broker or  
13 salesperson ~~pursuant to~~ *including, but not limited to, those duties*  
14 *imposed by* Section 2079 of the Civil Code.

15 26151. The specification of items for disclosure in this article  
16 does not limit or abridge any obligation for disclosure created by  
17 any other provision of law, or which may exist in order to avoid  
18 fraud, misrepresentation, or deceit in the transfer transaction.

19 26152. All items subject to disclosure requirements pursuant  
20 to this article shall be subject to enforcement pursuant to Article  
21 5 (commencing with Section 26154).

22 26153. Neither the transferor nor any listing or selling agent  
23 shall be held liable for any error, inaccuracy, or omission of any  
24 information delivered pursuant to this article if the error,  
25 inaccuracy, or omission was not within the personal knowledge of  
26 the transferor, or the listing or selling agent, or was based on  
27 information timely provided by public agencies, or by other  
28 persons providing relevant information by delivery of a report or  
29 opinion prepared by an expert dealing with matters within the  
30 relevant scope of the professional's license or expertise, and  
31 ordinary care was exercised in obtaining and transmitting it.

#### 32 33 Article 5. Enforcement

34  
35 26154. Public health officers, code enforcement officers,  
36 environmental health officers, city attorneys, and ~~employees of the~~  
37 ~~Department of Industrial Relations~~ *any other appropriate*  
38 *government entities* may respond to complaints about mold and  
39 may enforce standards ~~developed~~ *adopted* by the department,  
40 pursuant to subdivisions (a), (b), and (c) of Section 26103,

1 ~~Sections 26105 and 26130, and enforce the disclosure~~  
2 ~~requirements pursuant to Article 4 (commencing with Section~~  
3 ~~26140). 26103 and subdivisions (a), (b), and (c) of Section 26105,~~  
4 ~~and enforce the disclosure requirements of Sections 26147 and~~  
5 ~~26148 that are developed by the department in consultation with~~  
6 ~~the task force. The disclosure enforcement guidelines established~~  
7 ~~by the department pursuant to this section shall include~~  
8 ~~development of a form for disclosure and the penalties, if any, that~~  
9 ~~may be imposed for failure to disclose. No penalty shall be~~  
10 ~~assessed against an owner for failure to disclose under Section~~  
11 ~~26147 where the owner provides disclosure to the tenants in a form~~  
12 ~~that substantially conforms to the disclosure form developed by the~~  
13 ~~department. Local authority to enforce disclosure requirements~~  
14 ~~pursuant to this section shall not apply until the first January 1 or~~  
15 ~~July 1 that occurs at least six months after the department adopts~~  
16 ~~disclosure enforcement guidelines for compliance with Sections~~  
17 ~~26147 and 26148.~~

18 26155. After the State Department of Health Services,  
19 pursuant to administrative law procedures, submits the proposed  
20 regulations developed pursuant to this chapter, the Department of  
21 Consumer Affairs, in consultation with representatives from the  
22 State Department of Health Services, the Department of Industrial  
23 Relations, and members of the task force convened by the  
24 department pursuant to Section 26101.7, shall consider and report  
25 on the need for standards for mold testing professionals and mold  
26 remediation specialists. ~~A certified industrial hygienist shall be~~  
27 ~~deemed qualified to test for the assessment and identification of~~  
28 ~~molds.~~

30 *Article 6. Implementation*

31  
32 26156. *This chapter shall be implemented only to the extent*  
33 *that the department determines that funds are available for the*  
34 *implementation of this chapter.*

1		_____
2	CORRECTIONS	
3	Text — Pages 7,&9.	
4		_____
5		

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